

House Bill 2267
Testimony of John R. Mondschein, Esquire

House Bill 2267 has the noble purpose of attempting to provide money for a child whose primary source of support met his or her untimely demise. While the intent is honorable, the process is troublesome, to say the least.

In the first place, it could be argued that the proposed bill, if enacted, will be found unconstitutional as happened to Act 62 of 1993 which extended child support beyond age 18 for college bound students of divorced or separated parents. House Bill 2267 gives the benefit of post-death support payments only to children of divorced or separated parents as this Bill amends the Divorce code, clearly not applicable to children of intact families.

In this regard, it is postulated that a better way to reach the noble end of providing dollars to children of deceased parents may be to change the estate laws of the Commonwealth to prevent parents from disinheriting their minor children. Under current law, a spouse (even with a divorce action pending) cannot be disinherited, having a right to file an election to take against the will of the deceased spouse who made no provision. Minor children have no such rights and are left to the whims of their parents. Perhaps, giving all minor children an elective right similar to what is afforded a surviving spouse is a viable alternative.

Another way to reach the end of avoiding non-support due to untimely death would be to modify the support laws to provide that the support payor carry life insurance on himself or herself for the benefit of the children, the beneficiaries of the support order. This could be in the form of inexpensive decreasing term life insurance. The support laws already require health insurance. Life insurance seems like a logical next step.

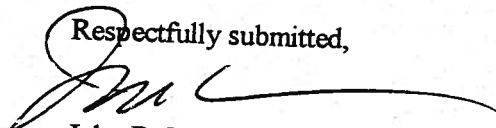
I have gone into alternatives to House Bill 2267 because, while I can appreciate the purpose, I see nothing but trouble in the application. For example, from an estate administrator's

point of view, does this bill require that an estate must remain open until the youngest child is emancipated? Is it sufficient for a lump sum of money to be carved out and set aside somewhere to meet the requirements of this bill so that the estate can be closed? Who determines the amount and what about possible future modifications? How is the inheritance tax to be calculated? Is this payment or creation of a fund to be treated as a debt to be paid off the top? Enough said!

The proposed bill, besides creating problems for estate administrators, will create administrative nightmares for the already beleaguered Domestic Relations offices. Another set of hearings will be required to determine new amounts to be paid or set aside by the estate; to determine the solvency of the estate; and/or to be sure that the estate is not sheltering the funds to avoid this obligation. In many cases, the administrator of the decedent's estate will be a second spouse, stepparent to the child cut off from support, who may be less than generous to his or her late spouse's first family.

Perhaps new accounts will have to be opened and more people will have to be hired to service a new layer of case files. Existing hearing officers will have to be retrained, again. All of this costs money, something in short supply at Domestic Relations offices. I propose that this bill not be passed by the House and that, if anything is to be done in this regard, the other avenues I have proposed be explored.

Respectfully submitted,



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John R. Mondschein, owner and senior attorney of Mondschein Associates, received his undergraduate degree from Muhlenberg College, with high honors, in 1960 and his Doctor of Laws degree from the University of Pennsylvania, with honors, in 1963. He has practiced law in Pennsylvania since 1964 and has limited his practice to matrimonial law since 1980. From 1964 to 1980 he engaged in a general criminal and civil practice. He was awarded an "A" rating by Martindale-Hubbell and is listed in the Bar Register of Preeminent Lawyers.

Attorney Mondschein is the founder and was the first president of the Family Law Section of the Lehigh County Bar Association. He is also a member of the Family Law Section of the Pennsylvania Bar Association and served on its Executive Council. Attorney Mondschein is a member of the Family Law Section of the American Bar Association. He is a member of the Academy of Family Mediators and is certified as a Fellow in the American Academy of Matrimonial Lawyers. He was elected Secretary of the Pennsylvania Chapter of the Academy after serving as Treasurer and on the Board of Managers.

Attorney Mondschein was honored by being appointed to the Joint State Government Commission's Advisory Committee to the General Assembly's Task Force on Domestic Relations Law. One of 28 in the state chosen for the Committee, Attorney Mondschein recommends legislation for submission to the General Assembly of the Commonwealth of Pennsylvania.

Attorney Mondschein frequently lectures for the Pennsylvania Bar Institute on family law topics providing continuing legal education credits to attorneys and Judges. He is the creator and teacher of "Divorce in the '90s", a family law course for individuals taught at the local colleges. He has published articles on family law topics in the Pennsylvania Law Weekly. He also hosts his own talk radio show, "Mondschein Talks Divorce", Saturdays on WGPA 1100 AM.